

October 4, 2019

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Ave  
Towson, MD 21286

RE: Hollins Residence at 15809 York Road  
Forest Conservation Variance  
Tracking # 03-19-2991

Dear Mr. Leary:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on March 26, 2019. The variance, requested in accordance with Section 33-6-116 of this Law, seeks approval to allow continued existing use of an outbuilding built by a neighbor partially within a recorded Forest Conservation Easement (FCE).

The FCE has existed on the property since 1996, as part of the Greenfield Estates subdivision. The lot has remained vacant, and a pool house was constructed by an adjoining neighbor on this property; 170 square feet of the pool house was constructed within the FCE. The FCE currently exists as mowed lawn with a few trees, and the aforementioned outbuilding. The applicant proposes to mitigate for the continued use of the 170 square feet of pool house encroachment by planting 6,000 square feet of the existing FCE with 28 1" caliper trees and posting 3 "Forest Conservation – Do Not Disturb" signs along the border of the easement.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to allow continued use of an accessory structure partially built within the FCE. Full application of

the law would require the entire structure to be removed from the FCE, impacting not only this property but the adjoining property. However, loss of the pool house would not deprive either landowner of all beneficial use of their property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The petitioner's plight is due to the adjoining neighbor building a pool house on his property, rather than the general conditions in the neighborhood. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. No new development would result from granting this variance, and the petitioner proposes to reforest 6,000 square feet of impacted FCE. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The FCE is currently grass, which will be planted with 28 1" caliper trees, and no direct impacts to streams or wetlands are proposed. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. Given that the neighbor built the pool house partially on the petitioner's property, the petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Permitting 170 square feet of the existing pool house to remain in the FCE while the remaining 6,000 square feet of this FCE is planted with native deciduous trees would be consistent with the spirit and intent the Forest Conservation Law. Therefore, we find that this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Mitigation for the 170 square feet of existing disturbance in the FCE shall be addressed by reforesting 6,000 square feet of the easement with 28 1" caliper Maryland native deciduous trees.

Mr. Devin Leary  
Hollins Residence at 15809 York Road  
Forest Conservation Variance  
October 4, 2019  
Page 3

2. Three “Forest Conservation – Do Not Disturb” signs shall be posted in the locations shown on the plan included with the variance application.
3. The following note must appear on all subsequent plans for this project:
  - “A special variance was granted on October 4, 2019 to Baltimore County’s Forest Conservation Law to allow an existing accessory structure to remain in the recorded Forest Conservation Easement. Conditions were placed on this variance, including planting of 6,000 square feet of the Forest Conservation Easement, as mitigation for allowing the accessory structure to remain.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owner sign the statement below and return a signed copy of this entire letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Thomas Krispin at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Director

DVL/tak

Enclosure

c. Tyler & Sara Hollins

Mr. Devin Leary  
Hollins Residence at 15809 York Road  
Forest Conservation Variance  
October 4, 2019  
Page 4

I/we agree to the conditions above to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

---

Owner

Date

---

Printed Name